

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

PRESENT: Brendan McNamara, Chair
Fran McMahon, Vice Chair
Ann Carnaby, Clerk
Tracy Emerick
Mark Olson
James Waddell, Selectman Member
Keith Lessard
Jason Bachand, Town Planner

ABSENT: Laurie Olivier, Office Manager/Planning

I. CALL TO ORDER

Chairman McNamara began the meeting at 7:00 p.m. by introducing the Board members and leading the Pledge of Allegiance to the flag.

It was noted by Mr. McNamara that 174 Ashworth Avenue withdrew its application.

II. ATTENDING TO BE HEARD

- Ann Bosacker (Withdrawn) – Temporary Parking Lot - 174 Ashworth Avenue (6 spaces)
- Discussion with Scott Bogle, Rockingham Planning Commission regarding Rails-to-Trails

Mr. Bogle presented a PowerPoint Presentation on Rails to Trails. (see video on Town website). There also is information available at the Town of Hampton, Planning Office/Department.

III. CONTINUED PUBLIC HEARINGS

15-041 958 Ocean Blvd (continued from August 5, 2015)

Map: 152 Lot: 24

Applicants: Lance and Patricia Cramer

Owners of Record: Same

Wetlands Permit: Addition of second story to existing home; construction of two small additions & attached deck along with permeable walkway & patio. Relocate boulders.

Mr. Corey Colwell appeared. The property is about one-third of an acre. It is within the 100' tidal buffer. It is in a state of disrepair. The Cramer's want to take half of it and go up one floor. The first section is a one-story garage; that would be raised up one floor. The back rectangle (on plan copy) would stay as is. Small additions are necessary. He referred to small

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

orange rectangles on the plan. They are 36 sf each (additions). It is necessary for a stairwell for the second floor. A bathroom is needed on the 2nd floor. There is also a balcony proposed off the 2nd floor. A small deck on the east side of the building is needed too – to be built over stone with quarter inch gaps to help with storm water. There is also a new patio proposed to the south side – between the building and ocean and a walkway connecting the driveway to the structure. Both are proposed as pervious structures. There's a path on the east side of the building also for safe access to the beach. The concrete pad was discussed and removal of same. The impervious area is reduced from 4,465 sf down to 4,310 sf. The project was presented to the Conservation Commission. Comments were made regarding a patch of Rosa Ragusa (south of patio). The Conservation Commission wanted a narrow strip to remain (for the Rosa Ragusa) in the buffer. The Cramer's have agreed to the Conservation Commission's request.

The permeability of the deck was a concern to the Conservation Commission also. The applicants are putting in a layer of 6" stone as the Commission wants and it was added to plan.

BOARD

Mr. Bachand confirmed through Ms. Dionne (Conservation Coordinator) that everything has been met.

PUBLIC

Mr. Bachand recommends approval with the stipulations contained in the Conservation Commission's letter dated July 31, 2015.

MOTION by Mr. Lessard to grant the wetlands permit along with the stipulations contained in the Conservation Commission's letter dated July 31, 2015 and with Ms. Dionne's email recommendations to Mr. Bachand dated August 18th at 9:13 a.m., on revision #381015 of file plan 4240910 (Plan number).

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES of August 5, 2015

MOTION by Mr. Lessard to accept the Minutes of August 5, 2015.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

VII. OTHER BUSINESS

- 16 Nor'East Lane – Special Permit Extension

Mr. Bachand discussed the project (deck rehabilitation and replace small asphalt area with grass and pervious walkway) that involved a wetlands permit. The permit expires on October 2, 2015. The applicant is requesting a two-year extension and Ms. Dionne recommends the extension.

MOVED by Mr. Emerick to extend the permit for two more years.

SECOND by Mr. Lessard.

Mr. McNamara said it appeared the applicant was going to have an attorney represent them. The applicant, Mr. Solomon was in the audience and had no questions.

VOTE: 7 – 0 – 0

MOTION PASSED.

32 Nor'East Lane – Special Permit Extension

Mr. Bachand noted that the applicant's wetlands permit for seawall improvements expires on September 4th. The Conservation Commission recommends extending the wetlands permit and Mr. Bachand concurs.

MOVED by Mr. Emerick to extend the wetlands permit for two more years.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

OTHER BUSINESS

- Town Attorney
77 & 79 Ocean Boulevard

Mr. Bachand said at the last meeting one of the significant issues the Board had on this project was parking. One request made as part of the approval was that Mr. Bachand consult with the Town Attorney, Mark Gearreald. There's another issue to discuss as well that came to Attorney Gearreald's attention as well.

Attorney Gearreald brought up the Board's August 5th decision. The Board commented it should be looked at in connection with 119 Ocean Blvd with its off-site parking situation at 6 I Street. Attorney Gearreald said that plans needed to be presented to the Board that covered both parcels, 119 Ocean and 6 I Street. Parking needed to be secured by an easement document on that project. A variance also had to be obtained by the ZBA, regarding 6.3.9 of the Zoning Ordinance regarding off-site parking. Abutters to both parcels needed to be notified. The

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

variance was obtained and an easement document was written and recorded at the Registry of Deeds so that parking would be secured perpetually.

The site plan application brought before the Planning Board only provided for the locations under 77 and 79 Ocean Boulevard. The Board recognized that 14 spaces of parking had to be secured at adjacent parcels owned by the same applicant. Joe Coronati represented that 14 spaces would be provided on Tax Map 283, Lot 41.

Mr. Gearreald noted that the focus is not just on 77 and 79 Ocean Blvd, but also Lot 41 which is an empty parcel. Attorney Gearreald asked if abutters were notified (to Lot 41) and they have not been. That is a material concern. If abutters are not notified, the Board doesn't have jurisdiction to proceed.

Attorney Gearreald also said the packet of application material included a decision by the ZBA on variances, but the decision pages the Board was provided did not include what was applied for. The ZBA was not applied to allow off-site parking. That was not approached to them. He thinks the Planning Board should require such a variance as it did in the Segar case (119 Ocean Blvd).

Attorney Gearreald said the Board may want to correct the plan showing 20 spaces on that Lot 41. The Board noted that one of the conditions was that the 14 spaces need to be legal; 9 x 18. It appears that the 9 foot width is, but 18' feet is not. Making the parking spots legal may not make the spaces legal for Lot 41.

The other item is the number of spaces – reference by the ZBA. Even though an application was not brought to the ZBA for parking, the ZBA noted 11 spaces on Lot 41. The Planning Board felt 14 spaces were needed. Mr. Bachand said he calculated 15 required spaces. Mr. Bachand said one unit is a year-round residence and it needs two spaces. The Planning Board said a minimum of 14 spaces.

Attorney Gearreald thinks this should be treated like the Rage project. One of the conditions of approval should be that a variance should be sought for Article 6.3.9. Attorney Gearreald reiterated lack of abutter notification, and he thinks the Planning Board's decision should be vacated. The application should be amended to cure any defects.

Mr. Bachand checked on the time frame. He stated if the applicant was to return to the Planning Board on September 16th, the legal notice has to appear in the newspaper no later than September 4th. The Planning Office would need everything by September 1st for this to happen. If they can't meet the deadlines because of modifications needed, they would have to submit to September 2nd for the October 7th meeting. The ZBA's next deadline is August 24th. Mr. Bachand said the applicant just represented this project as the motel parcel. Mr. Bachand said the parking is associated with the motel and should be part of the application.

Mr. Lessard asked about the lot on L Street. The applicant also has the Ocean Blvd lot which the Board heard (2 lots combined). He asked about the lot line adjustment. Mr. McMahon asked when that was brought up. Mr. Bachand does not know, but he knows it has been done. The two lots in the center were combined (where sunglasses are sold). Mr. Lessard asked if they'll have enough legal spaces for their other properties and asked if the applicant has to deal with that now. Mr. McNamara said there are 11 used now. Mr. Lessard asked if the Planning Board needs a complete accounting on all three/four lots.

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

Attorney Gearreald said until they re-measure the lots, no one knows if 14 parking spaces can be achieved there. It sounds like the applicant is offering some parking spots on Lot 43; if that were needed. That's why Mr. Lessard brought it up. Mr. Lessard wants to make sure parking is perpetual. Attorney Gearreald said it was fixed on Lot 41. Mr. Lessard felt they were saying they would put it there now and 'figure it out'. Mr. Lessard said the Planning Board is learning more now/tonight. Lot 41 abuts L Street per Mr. McNamara. They may not have enough room for all the spaces. Angled spaces don't require the same spacing per Mr. Emerick. Mr. Gearreald said they may need another variance if they can't fit the correct parking spaces. Attorney Gearreald said it's just amending the application to include the lot that was not addressed.

Mr. Emerick was not there, but he wants to know if the approval goes forward can the second part be dealt with separately. Attorney Gearreald said the parking is integral to the approval.

MOTION by Mr. Lessard to vacate the Planning Board's approval on August 5, 2015 of the site plan for 77 and 79 Ocean Boulevard and require the applicant to amend its application to include Parcels 41 and 43 so that the parking can be addressed with all abutters to those lots being notified.

Mr. Gearreald said the key in vacating is because of lack of abutter notification.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

Attorney Gearreald said the Board did a good job at dealing with the problems of that project.

- **Operation and Maintenance (O&M) Manual Procedures**

Mr. Bachand noted to the Planning Board that he was asked to get Attorney Gearreald's opinion for ideas in making the O&M procedure work more efficiently. Mr. Bachand believes Attorney Gearreald and Ms. Olivier came up with good ideas.

Attorney Gearreald said Ms. Olivier does track the O&M's and has a nice list of all projects where stormwater O&M's are required; there are about 27 since 2007. The importance is for storm water drainage. The Town has a permit from the EPA. The EPA wants to look to the Town if there's a problem and we take care of it and we are responsible.

The O&M's get reviewed. There is annual recording requirement by December 31st. It's a way of knowing the system is being maintained; the Town requires this to make sure the system is working. How to make sure we get the reports is a concern.

Attorney Gearreald gave his thoughts after talking with Mr. Bachand and Ms. Olivier. Attorney Gearreald thinks we can require that the manual be recorded and called out as a condition even if there is no Association, etc. Any buyer who goes to buy a property will see that there is an O&M.

The second is that the address of any Association be kept up to date with us. That will need to be specifically called out as well as a condition. Fines can be imposed if failure to comply occurs. Inducing people to comply in the first place is what we hope to obtain.

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

The Building Inspector could send warning letter to violator if it is ignored. If these conditions are on the plan and approval, Attorney Gearreald feels we could get addresses and responsibility would be adhered to.

Mr. Gearreald noted Ms. Olivier's idea was a good idea. There is a Declarant (usually the developer) and they are the responsible party to the O&M. Then condo units are sold and there is a Condo Association. Knowing who the new contact/responsible party for the Condo is tough. Attorney Gearreald thought at first the Assessor's Office may know it. The land in a condo association is undivided interests so that would not work. Each owner has its own percentage share.

Mr. Lessard asked if Ms. Olivier's proposal could cloud the deed. Mr. Emerick said the Town would have to put a lien on it. An undelivered letter would not go anywhere. The Town would probably have to exercise a lien on the property. Would the lien go on all units was asked.

Mr. Lessard said Ms. Olivier's idea appears to try to make sure all the owner(s) transferring to would be held responsible until the Town knows the new responsible party. Attorney Gearreald said just the Declarant would be held responsible until the next responsible party is given to the Planning Office. The developer has the responsibility, but then it goes to 13 (example); then the responsibility is not the declarant's anymore. Who would be responsible next is the issue.

If fines were imposed per Mr. McNamara, he asked who would be fined? It was noted that the Association would be. They mentioned as an example, \$10 per head per day. Then it goes up from there. Mr. Emerick asked who would get notified? Mr. Emerick noted that these O&Ms are an animal that is going to grow into something. Now that the Town has these manuals, we have the problem of not knowing who to go after. Mr. Lessard thinks Homeowner Associations are probably trickier. He thinks condo owners are wiser and will stay on top of what is going on.

Mr. Lessard noted some swales over at Timber Swamp are overgrown/Spring Hill.

Mr. McNamara said we can address this later on. Mr. Emerick doesn't know what we can do about it. Until the Association notifies the Town that they are not in charge, they have to hand off responsibility. They are responsible until they are not. It would be the president of the Association. Mr. McMahon said at least condo owners have meetings, but 10 people on a street for HOA....they don't care per Mr. Lessard, and they sell the house, move, etc. It's something to think about per Mr. McNamara. He asked Attorney Gearreald for ideas and Jason should **maybe ask the Building Inspector also**. If the Building Inspector goes to a condo and he sees a deficiency, he may have some idea of proof to see how he deals.

Mr. Gearreald said this is reporting only.

Mr. Lessard asked about registered letter; pool money from applicants. Stating along with filing, they add an amount of money into the pool so we can send out certified letters to a contact. We would have the money to do the mailing and it would give incentive.

Attorney Gearreald said we may want to price out what it would cost to do a report and then maybe some of money escrowed in the event to cover the cost for at least the first year. Things don't start failing till later on – 5 or 7 years out.

HAMPTON PLANNING BOARD

MINUTES

August 19, 2015 – 7:00 p.m.

Mr. Emerick said putting the responsibility on the Owner is the way to go. It gets done, then we know a maintenance agreement is done. Fines would kick in if maintenance is not done. **Mr. McNamara said let's bring this up again –The Board would like Mr. Bachand to speak with Building Inspector. We can re-address in another few weeks. Mr. Bachand can talk to Assessing also.**

Mr. Olson likes the Registered letter idea; if letter comes back unsigned, it sends up a flag to stay on top of it. **We'll bring it back up in 2 or 3 weeks.**

Mr. Bachand announced that Julie with the RPC is having a Tides-to-Storms meeting on Natural Resources on Wednesday, the 26th of August at 9:30 a.m., at the Town Manager's office. Public safety has also been discussed as part of this overall project. The Planning Board is invited to attend.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:43 p.m.

Respectfully submitted,

Laurie Olivier, Administrative Assistant

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING